



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
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Arnold Schwarzenegger
Governor

August 20, 2009

Randy Sundberg
Irvine Ranch Water District
3512 Michelson Drive
Irvine, CA 92612

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE NORTH CARLSON POND PROJECT, CITY OF IRVINE, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE)

Dear Mr. Sundberg:

On November 19, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for bank repairs for North Carlson Pond in the City of Irvine. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description:

Reconstruction of the banks of North Carlson Pond in the San Joaquin Marsh. The banks have eroded to near-vertical slopes along the majority of the pond's perimeter as the result of soils that are prone to erosion from wave action and sloughing. The work will involve excavating the banks, re-grading them to a 2:1 slope, and armoring the new slope with a four-foot deep layer of ¼-ton rip rap, underlain by a geotextile. The rip-rap would be keyed into the bottom of the bank four feet deep. Banks that currently contain riparian vegetation will not be altered. The water level in the Pond will be drawn down to facilitate the work. The work will take place within Section 59 of Township 6 South, Range 9 West, of the U.S. Geological Survey *Tustin, California*, 7.5-minute topographic quadrangle map (33.67102 degrees N/-117.84409 degrees W).

Receiving water:	North Carlson Pond.
Fill area:	0.03 acres of a pond (475 linear feet of shoreline).
Dredge volume:	Not applicable.

California Environmental Protection Agency



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Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 13.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is less than one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is not required.

North Carlson Pond was constructed by the Irvine Ranch Water District in 1997 as an aesthetic water feature. The Pond is fed, in part, by several urban storm drain lines and is consequently used to remove floating debris from urban runoff before discharging into the greater San Joaquin Marsh. The banks of the Pond are maintained by the District in an un-vegetated state in order to provide views to visitors and to provide a variety of habitat types within the Marsh. The proposed rip-rap will maintain these purposes by suppressing vegetation growth surrounding the Pond except where riparian vegetation is already established.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2007-0041, NPDES No. CAG998002 ("Order No. R8-2007-0041), "General Discharge Permit for Discharges to Surface Waters of Groundwater Resulting from Groundwater Dewatering Operations and/or Groundwater Cleanup Activities at Sites Within the San Diego Creek/Newport Bay Watershed Polluted by Petroleum Hydrocarbons, Solvents, Metals, and/or Salts", as amended by Order No. R8-2009-0045. For more information, please review Order No. R8-2007-41 and Order No. R8-2009-0045 at: www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2007_orders.shtml

The project is subject to a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act ("CEQA"), the Irvine Ranch Water District and the Regional Board have determined that the proposed project is categorically exempt from provisions of CEQA under Guidelines Section 15301 for the repair and minor alteration of an existing facility.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or



- approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 2) Project activities must not depress the dissolved oxygen concentration of downstream receiving waters below 5 mg/L as a result of controllable water quality factors. When the natural dissolved oxygen concentration is less than 5 mg/L, the discharger must not cause further depression.
 - 3) Project activities must not raise the pH of downstream receiving waters above 8.5 or lower pH below 6.5 as the result of controllable water quality factors.
 - 4) Project-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in discharges from North Carlson Pond to be increased by values greater than the following Basin Plan objectives as the result of controllable water quality factors:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
 - 5) An effective monitoring plan must be developed and implemented to document compliance with conditions 3, 4, and 5 above. Any suspected violation of these conditions must be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities must be submitted to the Executive Officer not later than 60-days from the completion of work.
 - 6) A copy of this Certification and any subsequent amendments must be maintained at the project site for the duration of work.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality



problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Shannon Pankratz
Department of Fish and Game – Erinn Wilson
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/north Carlson pond 302009-20

